

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.RAMACHANDRAN

&

THE HONOURABLE MR. JUSTICE A.K.BASHEER

MONDAY, THE 4TH DECEMBER 2006 / 13TH AGRAHAYANA 1928

WP(C).No. 31763 of 2005(F)

AGAINST THE ORDER DATED / / IN CMP.1639/05 IN
MC.117/1994 of FAMILY COURT, MALAPPURAM
.....

PETITIONER:

K.P.UDAYAKUMAR, S/O.SREEDHARAN,
KATTILPARAMBIL HOUSE, ARIYALLUR AMSOM AND DESOM,
MALAPURAM DISTRICT,
WORKING AT: BHARAT HEAVY ELECTRICALS LIMITED,
B.A.P.RANNIPET, TAMILNADU-632 406.

BY ADV. SRI.MANJERI SUNDERRAJ
SRI.B.PREMNATH (E)

RESPONDENTS:

1. POTTAYIL RADHA, AGED YEARS,
D/O.RAMAKRISHNAN, THAYYILTHODI HOUSE,
CHETTIPPADI, PARAPPANANGADI, TIRURANGADI TALUK,
MALAPURAM.
2. STATE OF KERALA, REP. BY
GOVERNMENT PLEADER,
HIGH COURT OF KERALA,
ERNAKULAM.

R1 BY ADV. SRIBABU S. NAIR
R2 BY G.P.SMT. LATHA THANKAPPAN

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 04/12/2006, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

APPENDIX

EXT.P1-TRUE COPY OF HIGH COURT ORDER DATD 16.6.2005 IN CRL.R.P.646/2000 AND CRL.M.C.5336/2000

EXT.P2-TRUE COPY OF CMP 1639/2005 DATED 1.6.2005 FILED BY FIRST RESPONDENT.

EXT.P3-TRUE COPY OF MC 343/2005 DATED 3.6.2005 FILED BY R1

EXT.P4-TRUE COPY OF COUNTER STATEMENT DATED 13.8.2005 FILED BY PETITIONER TO CMP 1639/05

EXT.P5-TRUE COPY OF DO IN M.C.343/2005

EXT.P6-TRUE COPY OF SALARY CERTIFICATE OF THE PETITIONER BEFOR THE MONTH OF MAY 2005

EXT.P7-TRUE COPY OF ORDER PASSED ON 16.8.2005 RECORDED ON THE DOCKET OF CMP 1639/2005 IN MC 117/1994 BY THE FAMILY COURT, MANJERI.

// TRUE COPY //

M. RAMACHANDRAN & A.K. BASHEER, JJ.

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W.P. (C) .NO.31763 OF 2005-F

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DATED THIS THE 4TH DAY OF DECEMBER, 2006.

JUDGMENT

Basheer, J.

Respondent No.1 is the wife of the petitioner. Respondent No.1 along with her two children had filed an application against the petitioner before the Judicial Magistrate of First Class, Parappanangadi under Section 125 of the Code of Criminal Procedure seeking maintenance. The court below had directed the petitioner to pay maintenance at the rate of Rs.500/- each per month to respondent No.1 and the two children from the date of petition which was filed in 1994. The above order was ultimately confirmed by this court in the common order passed in CrI.M.C.No.5336/2000 and CrI.R.P.No.646/2000, a copy of which is on record as Ext.P1. When the petitioner had committed default in payment of arrears of maintenance after passing of Ext.P1 order, respondent No.1 had initiated execution proceedings before the Family Court, Malappuram. During the course of the above proceedings, the Family Court had passed Ext.P7 order by which it was directed that Rs.5,000/- from the salary of the petitioner be attached. The above order is under challenge in this writ petition under Article 226 of the Constitution of India.

2. When this writ petition came up for admission on November 14, 2005, this court had granted stay of all further execution proceedings on

condition that the petitioner deposit Rs.2,000/- every month before the trial court. It is submitted by the learned counsel for the petitioner that the above direction is being complied with .

Having heard learned counsel for the parties and having perused the materials on record, we do not deem it necessary to keep this writ petition pending on the file this court any more. It will be open to the petitioner to raise all his contentions before the court below and seek appropriate modification of the order passed by it (Ext.P7), if so warranted. The court below shall pass orders in the matter after hearing the parties.

The writ petition is closed with the above observations.

(M.Ramachandran, Judge.)

(A.K. Basheer, Judge.)

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